



## 2023 South Dakota Legislature

# Senate Bill 40

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Senator David Johnson**

1 **An Act to revise the process for nominating candidates for statewide offices.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 12-5 be amended with a NEW SECTION:**

4 A candidate for Governor shall select a candidate for lieutenant governor and certify  
 5 the selection to the secretary of state no later than five p.m. central time on the second  
 6 Tuesday in August of the year of the election. The candidate for Governor and the  
 7 candidate's selection for lieutenant governor shall sign the certification. The State Board  
 8 of Elections shall promulgate rules, pursuant to chapter 1-26, to prescribe the form for  
 9 certification of a candidate for lieutenant governor under this section.

10 A candidate for lieutenant governor may withdraw by filing a request under oath  
 11 with the secretary of state. If a candidate for lieutenant governor withdraws, the candidate  
 12 for Governor shall select a replacement and certify the selection to the secretary of state  
 13 no later than five p.m. central time on the second Tuesday in August of the year of the  
 14 election. The candidate for Governor and the candidate's replacement selection for  
 15 lieutenant governor shall sign the certification. The secretary of state may not place the  
 16 name of the candidate for Governor on the general election ballot until a replacement  
 17 candidate has been certified.

18 **Section 2. That § 12-5-17 be AMENDED:**

19 **12-5-17.** Each political party shall hold a state convention ~~in each even-numbered~~  
 20 ~~year for the purposes stated in § 12-5-21,~~ in the years the President of the United States  
 21 is to be elected, for the purpose of nominating candidates for:

- 22 (1) Presidential elector;  
 23 (2) National committeeman; and  
 24 (3) National committeewoman.

1           The state central committee of each political party shall determine the date, time,  
 2           and place of the convention. The chair of the committee shall notify the secretary of state  
 3           of the date and place of the convention at least ~~fifteen business~~ thirty days ~~prior to~~ before  
 4           the date chosen.

5           **Section 3. That § 12-5-25 be AMENDED:**

6           **12-5-25.** A political party with alternative political status may nominate a  
 7           candidate for United States Senate, United States House of Representatives, Governor,  
 8           attorney general, secretary of state, state auditor, state treasurer, commissioner of school  
 9           and public lands, public utilities commissioner, and any legislative seat by convention, if  
 10          the nomination is submitted with the proper documentation to the Office of the Secretary  
 11          of State no later than ~~5:00~~ five p.m. central time on the second Tuesday in August, of the  
 12          year of the election.

13          A candidate registered with a political party with an alternative political status may  
 14          choose, if allowed by the party bylaws, to participate in a primary election by submitting  
 15          a candidate petition ~~no later than the last Tuesday of March~~ in accordance with § 12-5-  
 16          1.4.

17          **Section 4. That § 12-5-26 be AMENDED:**

18          **12-5-26.** A new political party may nominate a candidate for United States Senate,  
 19          United States House of Representatives, Governor, attorney general, secretary of state,  
 20          state auditor, state treasurer, commissioner of school and public lands, public utilities  
 21          commissioner, and any legislative seat by convention, if the nomination is submitted with  
 22          the proper documentation to the Office of the Secretary of State no later than ~~5:00~~ five  
 23          p.m. central time on the second Tuesday in August, of the year of the election.

24          **Section 5. That § 12-6-7 be AMENDED:**

25          **12-6-7.** A nominating petition may be composed of several sheets, ~~each,~~ Each  
 26          sheet ~~shall~~ must have identical headings printed at the top and ~~shall~~ must be a self-  
 27          contained sheet of paper. The petition for a candidate for the Legislature ~~shall designate~~  
 28          must specify the ~~senatorial or representative~~ legislative district ~~number~~ and ~~house~~  
 29          chamber for which the person is a candidate.

30          The petition for ~~party office or political public office for a state~~ a party's  
 31          gubernatorial or federal candidate ~~shall~~ must be signed by not less than one percent of

1 the voters who voted for that party's gubernatorial candidate at the last gubernatorial  
2 election ~~in the state~~. The petition for a party's candidate for attorney general, secretary  
3 of state, state auditor, state treasurer, commissioner of school and public lands, or public  
4 utilities commissioner, must be signed by not less than one-half percent of the voters who  
5 voted for that party's gubernatorial candidate at the last gubernatorial election. A petition  
6 for the Legislature, county party office, or county political public office ~~shall~~ must be signed  
7 by not less than one percent of the voters who voted for that party's gubernatorial  
8 candidate at the last gubernatorial election, or fifty voters, in the county, part of the  
9 county, or district electing a candidate to fill the office, whichever is less.

10 If the party meets the requirement for alternative political status as defined in  
11 § 12-1-3.1, the petition for party office or political public office for a state or federal  
12 candidate ~~shall~~ must be signed by not less than one percent of the voters who voted for  
13 that party's statewide candidate receiving the highest votes at the last gubernatorial  
14 election in the state. A petition for the Legislature, county party office, or county political  
15 public office ~~shall~~ must be signed by not less than one percent of the voters who voted for  
16 that party's statewide candidate receiving the highest votes at the last gubernatorial  
17 election in the county, part of the county, or district electing a candidate to fill the office,  
18 whichever is less.

19 If a county uses vote centers and does not print ballots by precinct, signature  
20 requirements are:

- 21 (1) For both partisan and independent candidates, fifty signatures for a legislative  
22 candidate whose district either in whole or in part includes that county;
- 23 (2) For a county candidate:
- 24 (a) Partisan candidate petitions ~~shall~~ must be signed by the lesser of fifty  
25 signatures or signatures from one percent of the voters who voted for that  
26 party's gubernatorial candidate, or the party's statewide candidate receiving  
27 the highest votes if the party meets the requirement for alternative party  
28 status as defined in § 12-1-3.1, at the last gubernatorial election in the  
29 county electing a candidate to fill the office; or
- 30 (b) Independent candidate petitions ~~shall~~ must be signed by not less than one  
31 percent of the total combined vote for Governor at the last certified election  
32 within the county electing a candidate to fill the office;
- 33 (3) Half the number of signatures required under subdivision (2), for county  
34 commissioner district candidates;

- 1 (4) Five signatures for a new party legislative candidate whose district either in whole  
 2 or in part includes that county;  
 3 (5) Five signatures for a new party county candidate; or  
 4 (6) Three signatures for a new party county commissioner district candidate.

5 **Section 6. That § 12-7-1 be AMENDED:**

6 **12-7-1.** Any candidate for ~~nonjudicial~~ public office, except judicial office, the office  
 7 of lieutenant governor, and as provided in § 12-7-7, who is not nominated by a primary  
 8 election, ~~may~~ be nominated by filing a certificate of nomination with the secretary of state  
 9 or county auditor ~~as prescribed by~~ in the manner of nominating petitions as described in  
 10 § 12-6-4, after December thirty-first and by but no later than five p.m. local time on the  
 11 ~~last Tuesday of~~ in April ~~at 5:00 p.m. local time~~ before the election. A certificate of  
 12 nomination ~~shall~~ must be executed as provided in chapter 12-6. If the certificate of  
 13 nomination is mailed by registered mail ~~by~~ no later than five p.m. local time on the last  
 14 ~~Tuesday of~~ in April ~~at 5:00 p.m. local time~~ before the election, it is timely submitted. The  
 15 certificate of nomination ~~shall~~ must be signed by registered voters within the district or  
 16 political subdivision in and for which the officers are to be elected. The number of  
 17 signatures required may not be less than one percent of the total combined vote cast for  
 18 Governor at the last certified gubernatorial election within the district or political  
 19 subdivision. The State Board of Elections shall promulgate rules, pursuant to chapter 1-  
 20 26, prescribing the forms for the certificate of nomination.

21 **Section 7. That § 12-7-1.2 be AMENDED:**

22 **12-7-1.2.** An independent candidate for Governor shall ~~certify the candidate's~~  
 23 ~~selection~~ select a candidate for lieutenant governor and certify the selection to the  
 24 secretary of state ~~with the candidate's nominating petition~~ no later than five p.m. central  
 25 time on the second Tuesday in August of the year of the election. The candidate and the  
 26 candidate's selection for lieutenant governor shall sign the certification ~~before the~~  
 27 ~~nominating petitions are circulated.~~

28 ~~If an~~ An independent candidate for lieutenant governor ~~withdraws, no~~ may  
 29 withdraw by filing a request under oath with the secretary of state. If an independent  
 30 candidate for lieutenant Governor withdraws, the independent candidate for Governor ~~may~~  
 31 ~~have the candidate's name printed upon a ballot unless a~~ shall select a replacement and  
 32 certify the selection for lieutenant governor is certified to the secretary of state ~~by the~~ no  
 33 later than five p.m. central time on the second Tuesday in August of the year of the

1 election. The candidate for Governor and the candidate's replacement selection for  
 2 lieutenant governor shall sign the certification. The secretary of state may not place the  
 3 name of the candidate for Governor on the general election ballot until a replacement  
 4 candidate has been certified.

5 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26,  
 6 prescribing the ~~forms~~ form for the certification for lieutenant governor.

7 **Section 8. That § 12-25-28 be AMENDED:**

8 **12-25-28.** Any candidate for the ~~United States Senate, the United States House~~  
 9 ~~of Representatives, Governor, circuit court judge, or the Legislature~~ following offices shall  
 10 file a statement of financial interest with the secretary of state not more than fifteen days  
 11 after filing the candidate's nominating petitions;

- 12 (1) United States Senate;  
 13 (2) United States House of Representatives;  
 14 (3) Governor;  
 15 (4) Attorney general;  
 16 (5) Secretary of state;  
 17 (6) State auditor;  
 18 (7) State treasurer;  
 19 (8) Commissioner of school and public lands;  
 20 (9) Public utilities commissioner;  
 21 (10) Circuit court judge; and  
 22 (11) Legislature.

23 Any Supreme Court justice shall file a statement of financial interest with the  
 24 secretary of state not more than fifteen days following notice to the secretary of state of  
 25 the justice's intention to place the justice's name on the retention ballot.

26 A violation of this section is a petty offense. Any intentional violation of this section  
 27 is a Class 2 misdemeanor.

28 **Section 9. That § 12-25-29 be AMENDED:**

29 **12-25-29.** Any candidate for lieutenant governor, ~~state treasurer, attorney~~  
 30 ~~general, secretary of state, state auditor, public utilities commissioner, or commissioner~~  
 31 ~~of school and public lands~~ shall file a statement of financial interest with the secretary of  
 32 state not more than fifteen days after the candidate's nomination is certified.

1 A violation of this section is a petty offense. Any intentional violation of this section  
2 is a Class 2 misdemeanor.

3 **Section 10. That § 12-25-29.1 be AMENDED:**

4 **12-25-29.1.** Any candidate for ~~United States Senate, United States House of~~  
5 ~~Representatives, Governor, lieutenant governor, state treasurer, attorney general,~~  
6 ~~secretary of state, state auditor, public utilities commissioner, commissioner of school and~~  
7 ~~public lands, or state legislator~~ the following offices who has been nominated at the  
8 convention of a party with alternative political status shall file a statement of financial  
9 interest with the secretary of state not more than fifteen days after the candidate's  
10 nomination is certified:

- 11 (1) United States Senate;  
12 (2) United States House of Representatives;  
13 (3) Governor;  
14 (4) Attorney general;  
15 (5) State auditor;  
16 (6) State treasurer;  
17 (7) Secretary of state;  
18 (8) Public utilities commissioner;  
19 (9) Commissioner of school and public lands; and  
20 (10) Legislature.

21 A violation of this section is a petty offense. Any intentional violation of this section  
22 is a Class 2 misdemeanor.

23 **Section 11. That § 3-1A-2 be AMENDED:**

24 **3-1A-2.** Any person who assumes the Office of Governor, lieutenant governor,  
25 state treasurer, attorney general, secretary of state, state auditor, commissioner of school  
26 and public lands, ~~Public Utilities Commissioner~~ public utilities commissioner, Supreme  
27 Court justice, circuit court judge, or state legislator shall, within fifteen days after the  
28 person assumes office, file a statement of financial interest setting forth any additions or  
29 corrections to any previous statement of financial interest filed pursuant to §§ 12-25-28  
30 ~~or 12-25-29~~ to 12-25-29.1, inclusive.

31 **Section 12. That § 12-5-21 be REPEALED:**

1           ~~The state convention shall nominate candidates for lieutenant governor, attorney~~  
2           ~~general, secretary of state, state auditor, state treasurer, commissioner of school and~~  
3           ~~public lands, and public utilities commissioner and in the years when a President of the~~  
4           ~~United States is to be elected, presidential electors and national committeeman and~~  
5           ~~national committeewoman of the party.~~